

Appl. No. : **09/354,058**
Filed : **July 15, 1999**

REMARKS

The May 2, 2006 Office Action was based on pending Claims 1–4, 7–13, 15–17, 19–23, 25–27, 29 and 30. By this Response, Applicant is amending Claims 1–4, 7–13, 15–17, 19–23, 25–27, 29 and 30.

Thus, after entry of the foregoing amendments, Claims 1–4, 7–13, 15–17, 19–23, 25–27, 29 and 30 are pending and presented for further consideration. In view of the foregoing amendments and the remarks set forth below, Applicant respectfully submits that Claims 1–4, 7–13, 15–17, 19–23, 25–27, 29 and 30 are in condition for allowance.

SUMMARY OF OBJECTIONS AND REJECTIONS

The May 2, 2006 Office Action objects to the drawings under 37 C.F.R. § 1.83(a) for failing to show an element described in the specification.

The specification is objected to for various formalities.

The Office Action rejects Claims 4, 10, 20 and 27 under 35 U.S.C. § 112, second paragraph, as not having sufficient antecedent basis.

The Office Action indicates that Claims 1–3, 7–9, 11–13, 16–17, 19, 21–23, 25, 26, 29 and 30 are allowable if rewritten to overcome the objections related thereto. Claims 4, 10, 20 and 27 are indicated to be allowable if rewritten to overcome the related thereto.

OFFICE ACTION COVER SHEET

Applicant notes that the May 2, 2006 Office Action Cover Sheet indicates that “Claims 1–4, 15–17, 19–23, 25–27, 29, 30 and 7013” are pending in this application. Applicant respectfully submits that the listing of pending claims should read “1–4, 7–13, 15–17, 19–23, 25–27, 29 and 30” (emphasis added). Applicant respectfully requests appropriate correction on any subsequent Communication from the Examiner.

OBJECTION TO DRAWINGS

The May 2, 2006 Office Action objects to the drawings as failing to show element “310” in Figure 4. Element “310” is shown in, and described with reference to, Figure 3. In the discussion of Figure 4, the specification again refers to element “310” (see page

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17, line 21 of original specification). This recitation of element "310," however, is a reference back to the element "310" shown in Figure 3. For example, in the previous paragraph on the same page, the specification states that "Fig. 4 is a logical block diagram of the resulting backup cells of the network system depicted in Fig. 3" (see page 17, lines 13–14).

To address the Office Action's concern, however, Applicant has amended the pertinent portion of the specification to read ". . . manager component 310 (depicted in Figure 3) is able to . . .," as shown in the attached substitute specification. Applicant submits that no new matter has been introduced by way of this amendment, and Applicant respectfully requests that this objection to the drawings be withdrawn.

OBJECTIONS TO SPECIFICATION

The Office Action objects to the specification for various formatting and formality reasons. In an attempt to address the various concerns by the Examiner, Applicant has included herewith: (i) a substitute specification pursuant to 37 C.F.R. § 1.125(a) with markings showing all the changes relative to the immediate prior version of the specification of record (Appendix A); and (ii) a clean version of the substitute specification (Appendix B).

Applicant submits that no new matter has been introduced by way of the amendments contained in the substitute specification. In view of these amendments and the remarks set forth below, Applicant respectfully requests that the objections to the specification be withdrawn.

Layout of the Specification

The Office Action objects to the specification as not following the preferred application layout provided in 37 C.F.R. § 1.77(b). For example, the Office Action objects to the use of the word "PATENT" in the upper right hand corner of page 2.

Applicant respectfully disagrees with this objection. As stated in the Office Action, the layout outlined in 37 C.F.R. § 1.77(b) is a preferred layout. However, in order to expedite the prosecution of this application, Applicant has amended the

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specification in an attempt to address the concerns raised in the Office Action with respect to the specification.

Reference to Related Applications

The Office Action indicates that the reference under the "CROSS REFERENCE TO RELATED APPLICATIONS" section should include "the title of the related application, the file date, the application number, the status of the application (pending, patent number, or abandoned) and the names of the inventors."

Applicant has amended the specification to include the serial number of the subject patent application, and Applicant respectfully requests that this objection to the specification be withdrawn.

Various Objections to Wording of Specification

Applicant also respectfully disagrees with the various other objections to the wording of several portions of the specification. However, in order to expedite the prosecution of this application, Applicant has amended the specification in an attempt to address the concerns raised in the Office Action with respect to the specification.

ALLOWABLE SUBJECT MATTER

Applicant thanks the Examiner for the indication of allowable subject matter in the pending claims. In particular, the Examiner indicates that Claims 4, 10, 20 and 27 would be allowable if amended to overcome the rejections under 35 U.S.C. § 112. The Examiner also indicates that Claims 1, 16 and 23 would be allowable if rewritten to recite "the plurality of backup cells configurable to be controlled by a manager component in another backup cell among the plurality of backup cells." Moreover, the remaining claims are indicated as being allowable if rewritten to overcome the various other claim rejections discussed below.

In view of the foregoing amendments to the claims and the remarks set forth below with respect to the claim objections and rejections raised in the Office Action, Applicant respectfully submits that the claims are in condition for allowance.

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CLAIM REJECTIONS UNDER 35 U.S.C. § 112, SECOND PARAGRAPH

The Office Action rejects Claims 4, 10, 20 and 27 under 35 U.S.C. § 112, second paragraph, as having insufficient antecedent basis for the following claim elements: "first manager component" (Claims 4 and 10) and "backup cells" and "plurality of network devices" (Claims 20 and 27). For support of this rejection, the Office Action cites M.P.E.P. § 608.01(b), which deals with Abstracts.

Applicant respectfully disagrees with this rejection. M.P.E.P. § 2173.05(e) states that a claim may be indefinite for lack of antecedent basis if the claim recites an element prefaced by "the" or "said" when the claim has no earlier recitation of that particular claim element. Each element identified by the Office Action, however, is properly introduced in the respective claims with the article "a," as is customary. Such language does not render a claim indefinite and certainly allows "the scope of [the] claim [to] be reasonably ascertainable by those skilled in the art" (see M.P.E.P. § 2173.05(e)).

In view of the foregoing remarks, Applicant respectfully submits that Claims 4, 10, 20 and 27 are in condition for allowance and requests that the rejection under 35 U.S.C. § 112 be withdrawn.

CLAIM OBJECTIONS

The May 2, 2006 Office Action objects to Applicant's choice of language in several of the pending claims. In particular, the Office Action makes the following suggestions: the claim term "network device" should be rewritten as "network computing device," the claim term "network devices" should be rewritten as "network computing devices," and the claim term "management component" should be rewritten as "manager component."

Although Applicant respectfully disagrees with these claim objections, in an effort to expedite the prosecution of this application, Applicant has amended the claims accordingly. Applicant also submits that such claim amendments are for clarification purposes only and do not further limit the scope of the claims. In view of these claim amendments, Applicant respectfully submits that the claims are in condition for allowance.

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REQUEST FOR TELEPHONE INTERVIEW

Pursuant to M.P.E.P. § 713.01, in order to expedite prosecution of this application, Applicant's undersigned attorney of record hereby formally requests a telephone interview with the Examiner as soon as the Examiner has considered the effect of the arguments presented above. Applicant's attorney can be reached at the general office number listed below.

CONCLUSION

In view of the foregoing, the present application is believed to be in condition for allowance, and such allowance is respectfully requested. If further issues remain, the Examiner is cordially invited to contact the undersigned such that the issues may be promptly resolved.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: 11/1/2006

By: Christian A. Fox

Christian A. Fox
Registration No. 58,507
Attorney of Record
Customer No. 20,995
(949) 760-0404

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